

### **REMARKS**

Claims 1-3, 5-7, 9, 10, 12-14 and 18-25 are pending in the present application.

### **Drawings**

Applicant notes the Examiner's acceptance of the Replacement Drawings filed along with the Amendment dated January 24, 2005.

### **Double Patenting Rejection**

Claims 1-3, 5-7, 9, 10, 12-14 and 18-25 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-14 of U.S. Patent Application Publication No. 2003/0146504, in view of the Ogawa et al. reference (U.S. Patent No. 6,237,218). This rejection is respectfully traversed for the following reasons.

As set forth in Manual of Patent Examining Procedures Section 804, a double patenting issue may arise 1) between two or more pending applications, 2) between one or more pending applications and a patent, or 3) between one or more pending applications and a published application. That is, double patenting may arise between different applications.

U.S. Patent Application Publication No. 2003/0146504 is the published application of the present application. (Please see the cover sheet of U.S. Patent Application Publication No. 2003/0146504, which identifies U.S. Application Serial No.

10/062,426, which is the present application.) Clearly, the published application of a particular application cannot form the basis of a double patenting rejection over the particular application. That is, since there is only one application at issue here, double patenting can not exist. Accordingly, the Examiner is respectfully requested to withdraw the rejection of claims 1-3, 5-7, 9, 10, 12-14 and 18-25 under the judicially created doctrine of obviousness-type double patenting for at least the above reasons.

### **Conclusion**

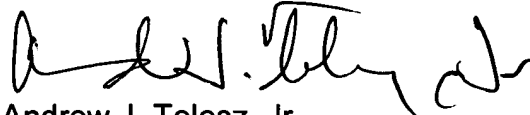
The Examiner is respectfully requested to reconsider and withdraw the corresponding rejection, and to pass the claims of the present application to issue, for at least the above reasons.

In the event that there are any outstanding matters remaining in the present application, please contact Andrew J. Telesz, Jr. (Reg. No. 33,581) at (571) 283-0720 in the Washington, D.C. area, to discuss these matters.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment for any additional fees that may be required, or credit any overpayment, to Deposit Account No. 50-0238.

Respectfully submitted,

VOLENTINE FRANCO & WHITT, P.L.L.C.

A handwritten signature in black ink, appearing to read "A. J. Telesz, Jr.", with a stylized flourish at the end.

Andrew J. Telesz, Jr.  
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